

A RESOLUTION OF SUPPORT FOR THE MAINTENANCE OF THE DIA ART COLLECTION

WHEREAS on August 7, 2012, the voters of Oakland County passed a .20 millage to support a contract between the Oakland County Art Institute Authority (“Authority”) and the Detroit Institute of Arts, Inc. (“DIA”), the art institute services provider providing art institute services to the Detroit Institute of Arts (“Museum”); and

WHEREAS as of August 7, 2013 the Oakland County tax levy raised an estimated \$9.7 million to support the DIA art services provider agreement; and

WHEREAS it is estimated that if the tax approved by the voters is levied for the entire 10 year term authorized, Oakland County taxpayers would contribute some \$98 million over the 10 year term to support the Authority’s art institute services contract; and

WHEREAS on August 7, 2012, identical .20 millage levies were separately approved by the voters in Macomb County and Wayne County and when combined with the Oakland levy, the 10 year levies will raise an estimated \$250 million in support of art services provider agreements and have the effect of preserving, enhancing, operating and maintaining the Museum and its collections; and

WHEREAS central to the adoption of the millage(s) was the binding contractual commitment that voter approved tax dollars would only be used by the DIA, Inc. to support the Museum as a premier encyclopedic art museum, be used by the DIA, Inc. to enhance the Museum’s world-class art collection and/or be used by the DIA, Inc. to insure the Museum was operated in accordance with the operating agreement dated December 12, 1997 between the City of Detroit as titled owner of the Museum and the Detroit Institute of Arts, Inc. (DIA), an art institute services provider; and

WHEREAS the December 12, 1997 operating agreement specifically mandates that, as a material condition of the agreement, any funds received from disposition of works of art in the City art collection, "...shall be used solely to purchase other works of art for the City art collection..."; and

WHEREAS the December 12, 1997 operating agreement also requires that all revenues derived from the operation of the Museum, the DIA building, the Frederick lot, the employee parking lot, including proceeds from ticket sales in connection with the Detroit Film Theater, Wassail, special exhibits or events, from the general admission to the Museum, from the DIA, Inc.'s use or exploitation of the Museum's intellectual property and revenues otherwise received by or on behalf of the DIA by gift or otherwise, from whatever source, shall be used for the benefit of the Museum;

WHEREAS in establishing the Oakland County Art Institute Authority the Oakland County Board of Commissioners relied on the written contractual agreements between the City of Detroit and the DIA, Inc. mandating that any funds received from disposition of works of art in the City art collection be used solely to purchase other works of art for the City art collection: and

WHEREAS in establishing the Oakland County Art Institute Authority the Oakland County Board of Commissioners relied on the written contractual agreements between the City of Detroit and the DIA, Inc. mandating that any revenues received by or on behalf of the DIA by gift or otherwise, from whatever source, "...shall be used for the benefit of..." the Museum; and

WHEREAS in determining to place before Oakland County voters the question of providing taxpayer funds to support a contract between the Authority and the DIA, Inc. for the provision of art institute services, the Oakland County Art Institute Authority relied on the contractual commitments set out in the December 12, 1997 operating agreement, which commitments were incorporated into the June 2012 Services Agreement ("Services Agreement") between the Authority and the DIA, Inc., guaranteeing that any funds received from disposition of works of art in the City art collection be used solely to purchase other works of art for the City Art collection,; and

WHEREAS the Oakland County Art Institute Authority, in determining to place before Oakland County voters the question of providing taxpayer funds to support a contract between the Authority and the DIA for the

provision of art institute services, relied on the contractual commitments set out in the December 12, 1997 operating agreement, which commitments were incorporated into the June 2012 Services Agreement (“Services Agreement”) between the Authority and the DIA, guaranteeing that any revenues received by or on behalf of the DIA by gift or otherwise, from whatever source, “...shall be used for the benefit of ...” the Museum; and

WHEREAS the Authority expressly provided in the service agreement contract between the Authority and DIA, Inc., that the Authority shall have no obligation to levy a tax in any year should the City of Detroit abrogate, cancel, revoke, suspend, terminate or substantially modify the operating agreement dated December 12, 1997 between the City and DIA, Inc.; and

WHEREAS the voters of Oakland County, in approving the August 7, 2012, tax levy, relied on the provisions of the June 2012 service agreement adopting the December 12, 1997 operating agreement, including the provisions mandating that any funds received from disposition of works of art in the City art collection be used solely to purchase other works of art for the City art collection; and

WHEREAS the voters of Oakland County, in approving the August 7, 2012, tax levy, relied on the provisions of the June 2012 service agreement adopting the December 12, 1997 operating agreement, including the provisions mandating that any revenues received by or on behalf of the DIA by gift or otherwise, from whatever source, “...shall be used for the benefit of ...” the Museum”; and

WHEREAS the City of Detroit has filed for bankruptcy protection under Chapter 9 of the U. S. Bankruptcy Code; and

WHEREAS the City’s Emergency Manager, the City’s representative in bankruptcy, has indicated that Museum art assets may be sold to benefit City creditors; and

WHEREAS City representatives in bankruptcy have reportedly indicated that DIA, Inc. revenues may be sought to fund substantial new lease and/or licensing payments directed to the City as a means to raise funds to satisfy City creditors under Chapter 9 or to fund City services or otherwise rather than to benefit the Detroit Institute of Arts Museum; and

WHEREAS the Oakland County Art Institute Authority asserts that the use of any funds received from disposition of works of art in the City art collection to satisfy City creditors under Chapter 9 or to fund city services or otherwise would constitute an abrogation, cancellation, revocation, suspension, termination and/or substantial modification of the operating agreement dated December 12, 1997 between the City and DIA, Inc.; and

WHEREAS the Oakland County Art Institute Authority asserts that the use of any funds received from the Oakland County Art Institute Authority to support new DIA, Inc. lease or licensing obligations imposed by the City as a means to raise funds to satisfy City creditors under Chapter 9, to support city services or otherwise and not for the benefit of the Museum, would constitute an abrogation, cancellation, revocation, suspension, termination and/or substantial modification of the operating agreement dated December 12, 1997, between the City and DIA, Inc.; and

WHEREAS the Authority finds that any such actions would trigger the provisions of Article III, Section 3.1(B) of the Art Institute Services Agreement between the Oakland County Art Institute Authority and the Detroit Institute of Arts, Inc. and terminate any Authority duty to levy any further tax to support the DIA, Inc. service agreement; and

WHEREAS the State of Michigan has long recognized the unique value of the Museum as a cultural asset and economic development tool as evidenced by their funding contributions of some \$130 million from 1989 through 2009; and

WHEREAS for over 100 years, businesses, individuals, foundations and philanthropic organizations have recognized the unique value of the Museum and provided hundreds of millions of dollars in major cash and art contributions, allowing the Museum to acquire and maintain a world class collection of art that has been held and preserved essentially as a public trust for both present and future generations; and

WHEREAS the Authority continues to believe that the Museum and its collections are important, irreplaceable and indivisible parts of the cultural fiber of the State and region.

NOW THEREFORE BE IT RESOLVED that the Oakland County Art Institute Authority hereby requests that all parties in interest recognize and

acknowledge that the Museum and its collections are irreplaceable, indivisible, state, regional and local public assets that must not be made a part of any city bankruptcy sale.

BE IT FURTHER RESOLVED that that the Oakland County Art Institute Authority hereby requests that all parties in interest recognize and acknowledge that any imposition of new and unprecedented leasing and/or licensing obligations on the DIA, Inc. as a means to generate new revenues for the City, its creditors or otherwise would effectively destroy the financial stability of the Museum and terminate any duty on the part of the Authority to levy taxes to support the services agreement between the Authority and the DIA, Inc.

BE IT FURTHER RESOLVED that the Authority requests that all parties recognize and acknowledge that, given the long-standing history of state, regional and local, public and private funding and support, that equity demands the Museum and its art collections be recognized and maintained as public trusts that must be preserved for the benefit of present and future generations.

BE IT FURTHER RESOLVED that the Oakland County Art Institute Authority hereby gives notice that the use of any funds from a sale of art works in the Museum collections for purposes other than the purchase of other works of art for the City art collection would terminate any obligation on the part of the Authority to continue funding the Services Agreement or to continue the levy of any millage in support thereof.

BE IT FURTHER RESOLVED that the Oakland County Art Institute Authority hereby gives notice that any imposition of leasing or licensing obligations on the DIA, Inc. diverting revenue away from the Museum in favor of the City, its creditors or otherwise, would terminate any obligation on the part of the Authority to continue funding the Services Agreement or to continue the levy of any millage in support thereof.

BE IT FURTHER RESOLVED that if a bankruptcy or other sale occurs and any sale proceeds are used for any purpose other than to purchase other works of art for the City art collection the Authority hereby directs its Treasurer to immediately stop levying any tax in support of the Services Agreement and to immediately stop the distribution of any tax proceeds as

may have been already levied and collected but not yet forwarded to the DIA pursuant to the June 2012 Services Agreement; and

BE IT FURTHER RESOLVED that if the City imposes leasing and or licensing obligations on the DIA, Inc. thereby diverting revenues away from the Museum, the Authority hereby directs its Treasurer to immediately stop levying any tax in support of the Services Agreement and to immediately stop the distribution of any tax proceeds as may have been already levied and collected but not yet forwarded to the DIA pursuant to the June 2012 Services Agreement.

Mr. Chairperson, I move adoption of the foregoing resolution.